



**BOARD FOR GEOLOGISTS AND GEOPHYSICISTS**  
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## **MINUTES OF THE MEETING OF THE BOARD FOR GEOLOGISTS AND GEOPHYSICISTS**

**December 5, 2002**

**2535 Capitol Oaks Drive  
Sacramento, CA 95833-2926**

### **1. CALL MEETING TO ORDER**

Robert A. Matthews, Ph.D., Vice President, called the meeting to order at 9:10 AM.

### **2. ROLL CALL TO ESTABLISH QUORUM**

Robert A. Matthews, Ph.D., Vice President  
William E. Black  
Craig A. Copelan  
Claude D. Fiddler  
Sharon Jasek Reid  
Thomas E. Ross (arrived at 9:20 AM)

Others in attendance:

Paul Sweeney, Executive Officer  
Gary Duke, Legal Counsel, Department of Consumer Affairs (DCA)  
George Dunfield, Enforcement Manager  
Mary Lynn Ferreira, Associate Governmental Program Analyst  
Trinda Bedrossian, California Geological Survey  
Scott Hector, Chair, Examination Committee  
J. C. Isham, Chair, Legislative Committee  
Elizabeth Mathieson, Chair, Enforcement Oversight Committee  
Rick Rempel, Rempel Consulting Inc.  
Tony Sawyer, Chair, Technical Advisory Committee

**3. APPROVAL OF THE MINUTES OF THE BOARD MEETING OF SEPTEMBER 24, 2002**

Mr. Copelan moved to approve the minutes of the open and closed sessions of the September 24, 2002, meeting.

Mr. Fiddler seconded.

The motion passes unanimously.

**4. PUBLIC COMMENT ON NON-AGENDA ITEMS**

There was no public comment.

**5. ELECTION OF BOARD PRESIDENT AND VICE PRESIDENT**

Mr. Black nominated Dr. Matthews for President, and Mr. Fiddler nominated Mr. Copelan for Vice President.

There were no other nominations. Dr. Matthews and Mr. Copelan accepted the nominations. The nominations were closed.

Dr. Matthews and Mr. Copelan were elected unanimously.

**6. EXECUTIVE OFFICER'S REPORT**

- a. Mr. Sweeney reported that Arlene Sakazaki, Budget Analyst, Department of Consumer Affairs (DCA), was unable to attend the meeting but would give a detailed report at the next meeting. The members reviewed the October 31, 2002, CalSTARS Budget Report prepared by the Department of Finance. Mr. Sweeney reported that the Board's expenditures and revenues are on track, and the Board should reach its goal of saving \$45,000.

Ms. Reid requested answers to the questions posed at the last Board meeting regarding the assessment of Fiscal Year 02-03 Prorata. Mr. Sweeney will obtain the information and provide it to the Board members.

**(Board Directive No. 02-25) – (Sweeney)**

Mr. Ross arrived.

The Board received copies of the response to the fee background information questionnaire. Ms. Reid pointed out that even with the extreme cost-saving efforts made, the Board cannot continue to operate without the fee increase. Mr. Sweeney informed the Board

that DCA has not responded to the Board's legislative proposal to increase fees. Senator Figueroa's staff has informed Mr. Sweeney that she supports the Board's proposal as an emergency bill.

Ms. Reid recommended that because of the current fiscal circumstances, the Board: (1) cancel its January 31, 2003, meeting if there is not a policy item that must be considered by the Board; (2) cancel the March 14, 2003, Technical Advisory Committee (TAC) meeting; (3) cancel the 2003 strategic planning process; and (4) suspend ex-officio members' attendance at Committee meetings. The Board discussed Ms. Reid's recommendations.

**Ms. Reid moved that at the next Board meeting, the Board review the list of cost-saving measures previously taken by the Board to determine which items will be reinstated upon the effective date of regulations implementing the anticipated fee increases.**

**Mr. Black seconded.**

**The motion passed unanimously.  
(Board Directive No. 02-26) – (Sweeney)**

**Ms. Reid moved that as a cost-saving measure during the current fiscal crisis, the Board suspend attendance at committee meetings by ex-officio members.**

**Mr. Black seconded.**

**The motion passed unanimously.**

**Ms. Reid moved to inform the Department of Consumer Affairs that the Board will suspend this fiscal year any action to update its Strategic Plan as a cost-saving.**

**Mr. Copelan seconded.**

**The motion passed unanimously.**

The Board directed Mr. Sweeney to inform DCA that the board is suspending the strategic planning process and will continue with the current plan as a working document until the Board's fiscal situation improves.

**(Board Directive No. 02-27) – (Sweeney)**

**Ms. Reid moved to cancel the January 31, 2003, Board meeting**

**unless there are policy matters that must be discussed between this meeting and the May 2, 2003, Board meeting.**

**Mr. Black seconded.**

**The motion passed unanimously.**

The Board deferred discussion regarding cancellation of the March 14, 2002, TAC meeting until Agenda Item No. 10.

Ms. Reid initiated discussion regarding cost of merging the Board with another DCA licensing board. Ms. Reid stressed that she is not making such a recommendation at this time and that she would never support transferring the Board's functions to a DCA bureau. Mr. Sweeney described how Ms. Reid had made this recommendation previously and how historically the Board had rejected it. Ms. Reid's discussion was characterized as extreme and very dangerous by Board President Matthews, and by Board Member Black, respectively. Board member Ross indicated that this discussion chipped away at the perceived relevance of the professional geologic services. All Board members, with the exception of Ms. Reid, were opposed to Ms. Reid's discussion.

- b. Mr. Sweeney requested that the Chair of the Enforcement Oversight Committee, Ms. Elizabeth Mathieson, present an independent evaluation and report on the Board's enforcement efforts in 2002. Ms. Mathieson reported that due to the record number of enforcement cases that were completed in 2002 the Committee was unable to review all closed cases during its November meeting. Ms. Mathieson indicated that the EOC was sensitive to budgetary concerns and therefore choose to meet twice in 2002. Ms. Mathieson noted that the cost of each EOC meeting is minimal to the Board and that the meetings are integral to the efficiency of the Board's enforcement program. Ms. Mathieson reported that since the EOC did not hold an additional meeting, Dr. Matthews and Ms. Mathieson had volunteered their time to review additional cases. Ms. Mathieson reported that experience has shown that since the Board's enforcement staff person's work produce is always reviewed by the EOC, it is appropriate for a representative of the EOC to present the enforcement report, as requested by Mr. Sweeney.

Ms. Mathieson reported that in 2002 enforcement staff has acted on increasing numbers of cases and made good progress reducing the backlog of enforcement cases. In particular, since the last Board meeting on September 24, 2002, the Board collected

\$17,875 in enforcement citation fines; assessments and Superior Court ordered payments. In addition, the enforcement case backlog had been reduced approximately 20%. Enforcement staff also closed six (6) Citation and Fine actions since the last meeting, resulting in \$10,000 of the \$17,875 collected. To date in 2002, the Board has collected \$33,750 in enforcement fines and assessments. Ms. Mathieson reported the number of case types under the clearer and more relevant updated enforcement case categorization system discussed at the last Board meeting.

Ms. Mathieson reported that the EOC was pleased with both the last reviews of enforcement cases and in summaries of enforcement work completed since the November 2002 EOC meeting. Ms. Mathieson further reported that the Board's enforcement program effectively covers the areas of practice of the professional geology and geophysics. One case, regarding the naturally occurring asbestos in El Dorado County, is very important to the public as well as the California Geological Survey and resulted in new information being disseminated to the public. Ms. Mathieson reported that she is in favor of posting enforcement case summaries on the web in that the posted analyses of the enforcement actions educate licensees of the current standards of practice.

Ms. Mathieson presented the EOC's revisions to the Disciplinary Guidelines (June 1998) and Enforcement Procedures (April 2000) that made no global changes to the documents but focused on improving clarity and writing style of the existing documents. The Board will consider the revisions at its next meeting.

Mr. Duke is researching other DCA boards' fine provisions for review at a future EOC meeting and subsequent presentation to the Board. Ms. Reid requested that when legislative proposals are considered next year for submission to DCA, Mr. Sweeney include for the Board's consideration proposed amendments to increase the maximum fine and to provide for reimbursement for investigative costs. Mr. Duke advised that if DCA does not want to increase the maximum fine in general provisions of the Business and Professions Code, the Board could seek legislation establishing independent citation and fine provisions for the Board.

Ms. Reid asked if an investigation to determine broader practice by the subject is initiated in cases of unlicensed activity. Mr. Sweeney explained that in the past such investigations were referred to the Division of Investigation but have been discontinued due to fiscal restraints. Mr. Sweeney also advised Ms. Reid that he cannot discuss open cases at Board meetings. Ms. Reid suggested this

be included on the list of cost-saving efforts made by the Board.

- c. Mr. Sweeney reported on completed and pending action items in the 2002 Strategic Plan.
- d. Mary Lynn Ferreira is retiring on December 31, 2002, by being one of only 136 state employees in six agencies participating in the golden handshake currently being offered.

**7. DISCUSSION OF PERSONNEL MATTERS, EXAMINATION PROCEDURES AND RESULTS, AND PENDING LITIGATION**

The Board adjourned to Closed Session as authorized by subsections (a)(1) and (e)(1) of section 111126 of the Government Code.

**8. REPORT ON RESULTS OF CLOSED SESSION**

Dr. Matthews reported that during Closed Session, the Board considered a personnel matter and Superior Court of the State of California for the County of Orange Case No. 02CC17018.

**9. REPORT ON NATIONAL ASSOCIATION OF STATE BOARDS OF GEOLOGY (ASBOG) ANNUAL MEETING IN BILOXI, MISSISSIPPI**

Mr. Copelan reported on the Annual Meeting of the National Association of State Boards of Geology (ASBOG) that Mr. Sweeney and he attended on November 4-10, 2002, in Biloxi, Mississippi.

A copy of the audit performed during the last year of the prior year's revenues was provided at the Annual Meeting. The Board previously had met with the Deputy State Auditor, California Bureau of State Audits, and obtained guidance into the areas that should be included in any performance audit done of the organization with specific governmental accounting standards that should be followed. Although The Board provided this information to the ASBOG President by letter, dated December 5, 2000, the ASBOG Executive Committee elected to limit the audit to its books and practices which did not meet the Board's expectations or address any of the concerns raised by the California Deputy State Auditor. The ASBOG auditor could not answer specific questions posed by Mr. Copelan and Mr. Sweeney, but is willing to address questions with the Deputy State Auditor at a later date.

The Executive Committee also reviewed ASBOG's policy for financial procedures that resulted in a detailed audit policy that places the financial burden of future audits on the state or states requesting an audit. Additionally, the audit must be performed in ASBOG's Charleston, South Carolina, office.

The following changes to the bylaws and charter were passed:

1. Charter section 4.03 was amended to require that an elected officer be a geologist registered by a member board.
2. Charter section 9.01 was amended to require that proxy votes be submitted in writing on an official ASBOG form.
3. Bylaw section 4.04 was amended to provide that if directed by the Voting Delegates at the Annual Meeting, the Treasurer shall obtain a review of ASBOG's finances by an independent Certified Public Accountant selected by the Executive Committee.

Mr. Copelan reported that he contacted the newly-elected ASBOG President regarding serving as a member of the Finance Committee.

The Council of Examiners met during the Annual Meeting. Last year, the Council was faced with its first legal challenge of the ASBOG Fundamentals of Geology and Practice of Geology examinations. An applicant in Florida challenged seventeen questions from the March 2001 examinations. ASBOG responded by preparing a synopsis of the testing process and by hiring expert witnesses and counsel to assist the State of Florida. The administrative hearing resulted in support of the ASBOG examinations and denied the plaintiff's request for credit for the disputed questions. The Board was not informed of this litigation before the Annual Meeting.

**Ms. Reid moved that the Board approach the ASBOG Executive Committee and request that it considers a policy to inform all member boards of any pending litigation.**

**Ms. Copelan seconded.**

**The motion passed unanimously.**

The Board directed Mr. Sweeney to inform the ASBOG Executive Committee by letter before its January 2003 meeting.

**(Board Directive No. 02-28) – (Sweeney)**

A Code of Ethics was adopted. Mr. Sweeney will obtain a copy from ASBOG and distribute it to all Board members.

**(Board Directive No. 02-29) – (Sweeney)**

## **10. TECHNICAL ADVISORY COMMITTEE REPORT**

Tony Sawyer, Chair, Technical Advisory Committee (TAC):

- a. The Board received copies of the minutes of the November 1, 2002, Technical Advisory Committee meeting.
- b. The Board considered TAC's recommended amendments to section 3003, California Code of Regulations (CCR), defining professional geological work and professional geophysical work. Ms. Reid stated that because of past jurisdictional problems with the Registered Environmental Assessors, Soil Scientists, Foresters and Paleontologists, she could not support amendments to the definition of the practices of geology and geophysics without input from affected entities.

**Ms. Reid moved that the Board distribute a letter to appropriate stakeholders advising them of TAC's recommended amendments to section 3003 for consideration at a future board meeting and soliciting input regarding the definition of what is and is not professional geological and geophysical work.**

**Mr. Black seconded.**

**The motion passed unanimously.**

**(Board Directive No. 02-30) – (Sweeney)**

The Board considered TAC's recommended amendments to section 3065, CCR, requiring licensees to maintain competence in those areas of geology and geophysics that they provides services and requiring licensees who review geological or geophysical reports to notify the Board of reports that do not meet professional standards and/or that may contain violations of the Business and Professions Code.

**Ms. Reid moved to notice for public hearing at the May 2, 2003, Board meeting, amendments to section 3065, CCR.**

**Mr. Copelan seconded.**

**The motion passed unanimously.**

**(Board Directive No. 02-31) – (Sweeney)**

- c. Trinda Bedrossian, California Geological Survey (CGS), reported that the State Mining and Geology Board's (SMGB) Forest Practice Technical Advisory Committee (FPTAC) was requested to comment on whether the methodologies being proposed in a report



prepared for a specific timber company are applicable for use in California. The SMGB will hold a meeting in January 2003 to review the findings of the FPTAC.

On November 19 and 20, 2002, the CGS and USFS held a Forest Landslides Seminar. Mr. Dunfield represented the Board addressing licensing issues. Ms. Bedrossian stated that the majority of USFS geologists are not licensed, but USFS will be working with Board staff to pursue licensure. There are similar unlicensed activity issues with wildlife agencies. CGS is collecting instances of unlicensed activity so that if it submits an enforcement action there will be multiple examples.

- d. Mr. Sawyer reported that TAC has completed all items assigned to it in the Strategic Plan. It still is working on the proposed Code of Professional Conduct and definition of responsible charge.

**Ms. Reid moved to direct the Legislative, Technical Advisory and Enforcement Oversight Committees not to meet until requested by the President.**

**Mr. Fiddler seconded.**

**The motion passed unanimously.**

## **11. LEGISLATIVE COMMITTEE REPORT**

J. C. Isham, Chair, Legislative Committee:

- a. Senate Bill No. 1011 (Sher) that transfers the Registered Environmental Assessor program from the Office of Environmental Health Hazard Assessment to the Department of Toxic Substances Control was signed by Governor Davis on September 6, 2002.

Senate Bill No. 1240 (Figueroa) addressing the improper use of seals was signed by Governor Davis on August 20, 2002.

Senate Bill No. 2018 (Figueroa) addressing the appropriation of fines, penalties or other enforcement actions was signed by Governor Davis on September 17, 2002.

Senate Bill No. 2025 (Figueroa) that extends the Board's sunset repeal date to January 1, 2007, was signed by Governor Davis on September 20, 2002.

- b. DCA has not responded to the Board's three legislative proposals

submitted to DCA. Mr. Sweeney will notify the Board members as soon as a response is received.

## **12. EXAMINATION COMMITTEE REPORT**

Scott Hector, Chair, Examination Committee reported:

- a. The Board received copies of the draft minutes of the November 15, 2002, Examination Committee meeting.

The Committee determined that is not in a position yet to make a recommendation to the Board regarding cooperative licensure with the States of Oregon and Washington for Certified Engineering Geologist and Certified Hydrogeologists examinations.

Tracy Ferrel, Ph.D., DCA, Office of Examination Resources, continues to work on the matter. The Committee also is attempting to obtain copies of the Oregon and Washington test questions for comparison with the California examinations for equivalency.

The Committee spent the majority of its meeting reviewing the Spring 2003 examinations. The Committee will perform the final review of these examinations at its next meeting on February 7, 2003.

- b. The Board concurred that the Examination Committee must continue to meet because of vital examination reviews and item development that must be performed.

The Board discussed the importance of sending two representatives to the ASBOG Council of Examiners meeting in April 2003 as planned.

**Ms. Reid moved that the Board wants both representatives to attend the ASBOG Council of Examiners in April 2003.**

**Mr. Ross seconded.**

**The motion passed unanimously.**

## **13. REPORT FROM BOARD ATTORNEY ON STATUS OF ASSIGNMENTS**

Mr. Duke stated that Dr. Matthews and Mr. Sweeney met recently with Doreathea Johnson, Deputy Director, DCA, Legal Affairs. Mr. Sweeney explained that Ms. Johnson requested the meeting with all boards' Executive Officers and Presidents to discuss the workload of the Legal Office and the effect of the state hiring freeze. Mr. Duke stated that it

should not effect his work with the Board.

Mr. Sweeney announced that Lynn Morris has been appointed Chief of the Home Furnishing and Thermal Insulation Bureau effective December 2, 2002.

**14. ESTABLISH AGENDA FOR MAY 2, 2003, BOARD MEETING WITH NOTIFICATION THAT ITEMS MUST BE SUBMITTED TO BOARD OFFICE NO LATER THAN THREE WEEKS PRIOR TO THE MEETING DATE**

The January 31, 2003, Board meeting was canceled.

**15. ANNOUNCEMENTS/ACTIVITIES OF BOARD MEMBERS**

Mr. Ross initiated discussion on heightened public exposure to geologists and information to assist consumers. He offered to work with Board staff in this area.

**16. ADJOURN MEETING**

Dr. Matthews adjourned the meeting at 2:35 PM.

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**Robert A. Matthews, Ph.D., President**

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**PAUL SWEENEY, Executive Officer**

**Date Approved:**